

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

---

Ex parte JAMES LEISTENSNIER  
and  
THOMAS LOOP

---

Application No. 09/373,786

---

ORDER RETURNING UNDOCKETED APPEAL

---

This application was received at the Board of Patent Appeals and Interferences on June 9, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith returned to the examiner. The matters requiring attention prior to docketing are identified below.

On page 3 of the Examiner's Answer mailed December 20, 2002 (Paper No. 12), the examiner listed the following reference under the heading "Prior Art of Record";

US Pat. 5,978,778

O'Shaughnessy

11-1999

It is noted that the Bloom reference cited on pages 7 and 8 of the Examiner's Answer under the heading "Claim Rejections - 35 USC § 103" is not included as "Prior Art of Record." In accordance with § 1211 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., Aug. 2001), clarification is required regarding the pertinence of the Bloom reference. In addition, MPEP § 1208(A)(9) states:

(A) REQUIREMENTS FOR EXAMINER'S ANSWER.

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . .

(9) References of Record. A listing of the references of record relied on, and, in the case of nonpatent references, the relevant page or pages.

If appropriate, compliance with MPEP § 1208(A)(9) is required in listing the Bloom reference under the heading "Prior Art of Record" appearing in the Examiner's Answer mailed December 20, 2002 (Paper No. 12).

Accordingly, it is

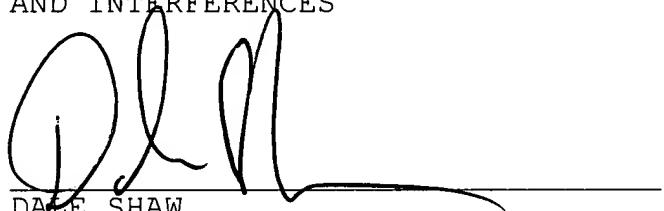
ORDERED that the application is returned to the examiner:

Application 09/373,786

1. for clarification under MPEP § 1211 regarding the pertinence of the Bloom reference listed on pages 7 and 8 of the Examiner's Answer mailed December 20, 2002 (Paper No. 12);
2. if appropriate, for compliance with MPEP § 1208(A)(9) by listing the Bloom reference in a Supplemental Examiner's Answer under the heading "References of Record"; and
3. for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



DALE SHAW  
Program and Resource Administrator  
(703) 308-9797

cc: Rothwell, Fig, Ernst & Manbeck, P.C.  
1425 K Street, N.W.  
Suite 800  
Washington, D.C. 20005

ds/psb/lrc  
RA030382